

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Lafayette Post Office  
(Lafayette, Kentucky)

Docket No. A2012-51

COMMENTS OF THE PUBLIC REPRESENTATIVE

(January 12, 2012)

I. INTRODUCTION AND BACKGROUND

On November 3, 2011, the Postal Regulatory Commission (Commission) received an appeal for review of the closing of the Lafayette Post Office.<sup>1</sup> On November 18, 2011, the Commission issued Order No. 980 instituting the current review proceedings, appointed a Public Representative, and established a procedural schedule.<sup>2</sup> On November 18, 2011, the Postal Service filed an electronic version of the administrative record (AR) concerning its Final Determination, Postal Service Docket Number 1436299-42254.<sup>3</sup> On December 8, 2011, the Petitioner filed supplemental comments in support of the petition.

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<sup>1</sup> Letter and Petition filed by Ellin Francis, Mayor of LaFayette, Kentucky (Petitioner) was postmarked October 17, 2011.

<sup>2</sup> Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 18, 2011, (Order No. 980).

<sup>3</sup> LaFayette Kentucky Post Office Administrative Record, November 18, 2011, (AR), document number 3, page 1 of 1.

The Petitioner filed a Form 61, stating her objections to the closure of the Lafayette Post Office, on December 8, 2011. The Postal Service filed its determination to close the Lafayette Post Office on December 27, 2011.<sup>4</sup>

## II. STATEMENT OF FACTS

The Lafayette Post Office is described by the Postal Service in its Final Determination as an EAS-55 level post office in Lafayette, Kentucky, located in Christian County. AR, Item No. 1 at 1. The Lafayette Post Office provides service to 91 post office box customers, 59 intermediate rural boxes, and 32 intermediate highway contract route (HCR) boxes. (*Id.*) The Lafayette Post Office handles on average five (rounded) window transactions, which averaged a daily workload of five minutes (rounded). *Id.*, Item No. 10 at 1.

No official date was listed on the letter sent by Mr. C. Carroll, Manager, Post Office Operations to Mr. Dillman, District Manager, Kentuckiana PFC requesting permission to investigate the possible closure of the Lafayette Post Office, Lafayette, Kentucky. AR, Item No. 1, at 1. The request was granted. *Id.*

On May 19, 2011, the Postal Service notified Lafayette Post Office customers of a possible change in how their postal services would be provided. AR, Item No. 21 at 1. As described in the notice, customers were given the option of receiving delivery and retail services by HCR service under the administrative responsibility of the Hopkinsville Post Office, located 18.1 miles away. *Id.* The Postal Service noted that additional retail services are available at the Herndon Post Office, located 7.5 miles away. *Id.* Questionnaires were addressed to customers of the Lafayette Post Office and were completed and returned by June 9, 2011. *Id.* Customers were invited to attend a public meeting on June 9, 2011, at the Lafayette Baptist Church between 6 p.m. and 7 p.m., where Postal Service representatives would answer questions and provide information about postal services. *Id.* Of the 184 questionnaires distributed by the Postal Service,

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<sup>4</sup> United States Postal Service Comments Regarding Appeal, December 27, 2011 (Postal Service Comments).

36 were completed and returned; no one responded favorably to the proposal; 20 responded unfavorably and 16 expressed no opinion. AR, Item No. 23 at 1. The community meeting was held on June 9, 2011, as scheduled, with 58 customers in attendance.<sup>5</sup> *Id.*, Item No. 24 at 1-5. The Postal Service did consider and respond to the various concerns expressed by the postal customers at the June 9, 2011 public meeting. *Id.*

On June 16, 2011, a formal proposal to close the Lafayette Post Office was forwarded to that post office<sup>6</sup> and was subsequently posted for sixty days beginning on June 24, 2011 to August 25, 2011. *Id.*, Item No. 33 at 1. *See also*, Item No. 36 at 1-4. In addition, an invitation to file comments was posted in the Hopkinsville Post Office and the Herndon Post Office. *Id.*, Item No. 36 at 2 and 6. Three comments were received, during the posting period that ended August 25, 2011. *Id.*, Item No. 38 at 2, 5 and 7-11, 13 and 15-17. The Vice President for Delivery and Post Office Operations approved the request to discontinue the Lafayette Post Office on September 26, 2011. *Id.*, Item No. 47 at 9. The decision was based upon the: (1) postmaster's retirement on August 29, 2009; (2) workload and revenue decline; (3) close proximity to other post offices; and (4) operational efficiencies to be obtained by offering rural route services administered by the Hopkinsville Post Office. *Id.*, Item No. 47 at 2.

### III. POSITIONS OF THE PARTIES

#### A. The Petitioners

In a letter, the Petitioner contends that (1) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular

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<sup>5</sup> The Postal Service indicated that 59 customers attended the public meeting. However, a manual count performed by the Public Representative (PR) indicated there were 58 signatures – one of the 59 signatures was crossed out. AR, Item No. 24, at 1-5.

<sup>6</sup> AR, Item No. 31 at 1.

postal services to the community and (2) there are factual errors contained in the Final Determination. Petition for review by Ellin Francis, October 17, 2011. Mr. C. Rogers sent a letter to Congressman Whitfield requesting that his letter be forwarded to the Postal Service. AR, Item No. 28, 1-4.

## B. The Postal Service

On December 27, 2011, the Postal Service filed its comments. In that filing, the Postal Service supports its decision to close the Lafayette Post Office on the basis that the Postal Service: (1) gave adequate consideration to the impact on effective and regular postal services; and (2) could only identify one insignificant factual error.<sup>7</sup> In addition, the Postal Service stated that it followed proper procedures and considered the effect of the closing on the community, the impact on employees as well as the economic savings that would result from the closure. Postal Service Comments at 12-13.

The Postal Service commented that customers will receive incoming mail at a rural mailbox or a Cluster Box Unit or they may opt to have Post Office Box service at a nearby Post Office. *Id.* at 9-10.

The Postal Service recognized that it had “mistakenly identified the community as “unincorporated,” when in fact it is incorporated.” *Id.* at 11.

## IV. STANDARD OF REVIEW AND APPLICABLE LAW

### A. Standard of Review

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires that the Postal Service's determination be reviewed on the basis of the record that was before the Postal Service. The

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<sup>7</sup> United States Postal Service Comments Regarding Appeal, (hereafter, Postal Service Comments), December 27, 2011, at 1 and 2.

Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds are: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d) (5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.<sup>8</sup>

#### B. The Law Governing Postal Service Determinations

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404 to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. § 404(d)(2)(A)

In addition, the Postal Service's Final Determination must be in writing, address the aforementioned considerations and be made available to persons served by the post office. 39 U.S.C. § 404(d)(3). Finally, the Postal Service is prohibited from taking any action to close a post office until 60 days after its Final Determination is made available. 39 U.S.C. § 404(d)(4).

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<sup>8</sup> Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal. The petitioners in this proceeding did not request suspension of the closure of the Rhodell Post Office. Petitions, October 6, 13, and 19, 2011.

## V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review, of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by the Petitioner and the Postal Service, the Public Representative concludes that the Postal Service has not provided sufficient consideration of the effect the closure will have on postal patrons. The decision to close the Lafayette Post Office is “arbitrary and capricious,” and fails to provide a maximum degree of effective and regular postal service to rural areas and communities.

The Postal Service has not appropriately considered the “Effect of the Closing on the Community Served.” A review of the Administrative Record indicates that the Lafayette, KY Post Office currently has 91 post office box customers. AR, Item No. 1 at 1. A review of the Proposal to Close indicates that delivery and retail services will be provided by the Hopkinsville Post Office, located 18.1 miles away.<sup>9</sup> At present, the Hopkinsville Post Office has 40 post office boxes available to rent. The Herndon Post office, located seven miles away from the Lafayette Post Office, has 28 post office boxes available. *Id.*, Item No. 33 at 2. Combined, the Hopkinsville and Herndon Post Offices have 68 post office boxes available for rent, or a shortage of 23 post office boxes for those currently renting a post office box at the Lafayette Post Office. In its filing, the Postal Service provides no information on how the Hopkinsville Post Office or the Herndon Post Office will accommodate all the existing Lafayette post office box customers.

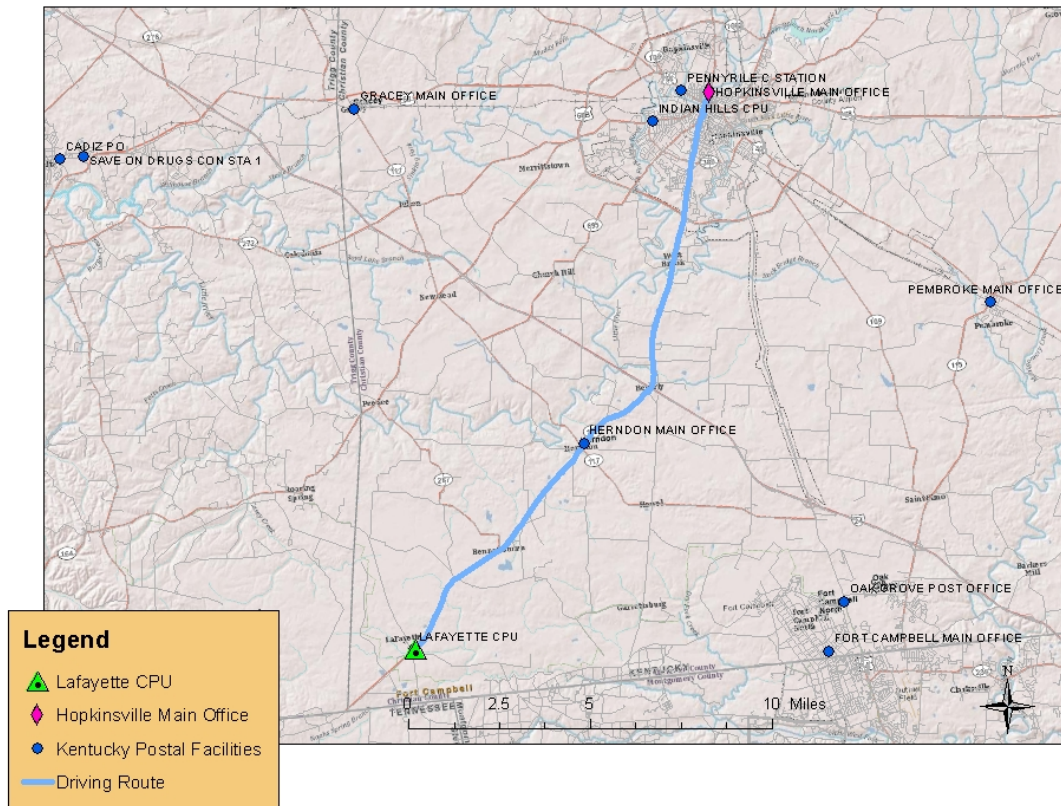
## VI. CONCLUSION

The insufficient number of available Post Office Boxes for the Lafayette Post Office patrons, at both the Hopkinsville and Herndon Post Offices, may warrant the Commission remanding the closure of the Lafayette Post Office.

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<sup>9</sup> See the attached map of the area surrounding the LaFayette Post Office.

Driving Route from Lafayette CPU to Hopkinsville Main Office



Respectfully Submitted,

/s/ Pamela A. Thompson  
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